

Exhibit YY

LAW OFFICE OF SAMUEL P. NEWTON, P.C.

VS

WEBER COUNTY

CHRISTOPHER ALLRED

April 18, 2019



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LAW OFFICE OF SAMUEL P. NEWTON, P.C. vs WEBER COUNTY

April 18, 2019

Christopher Allred

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION

LAW OFFICE OF SAMUEL P.
NEWTON, P.C. and SAMUEL P.
NEWTON, an individual,

Plaintiff,

vs.

WEBER COUNTY, a municipal
corporation; JAMES H.
HARVEY, an individual;
KERRY W. GIBSON, an
individual; CHARLES J.
EBERT, an individual,

Defendants.

Civil No. 1:18-cv-00015
RJS

Judge Robert Shelby

COPY

DEPOSITION OF: CHRISTOPHER ALLRED

APRIL 18, 2019

1:08 P.M. TO 2:35 P.M.

Location: CHRISTENSEN & JENSEN
257 East 200 South, Suite 1100
Salt Lake City, Utah

Reporter: Brandy Harris, RPR
Notary Public in and for the State of Utah

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A P P E A R A N C E S

FOR THE PLAINTIFF:

Karra J. Porter
CHRISTENSEN & JENSEN
257 East 200 South, Suite 1100
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FOR THE DEFENDANTS:

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ALSO PRESENT:

Bryan R. Baron - Weber County Attorney's Office

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(No items were requested.)

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P R O C E E D I N G S

CHRISTOPHER ALLRED,

called as a witness, being first duly sworn,

was examined and testified as follows:

EXAMINATION

BY MS. PORTER:

Q. Could you please state your name for the record?

A. Chris Allred.

Q. And is Chris short for --

A. Christopher.

Q. Okay. Are you currently employed by Weber County?

A. I am.

Q. How long have you worked for Weber County?

A. About 22 years.

Q. Can you very briefly walk us through your employment history at Weber County?

A. I began as a law clerk while I was in law school and I was hired on after I graduated in the civil department. I served as a deputy county attorney in the civil department until about five years ago when I became county attorney.

Q. Did you become county attorney through election?

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1 A. I did.

2 Q. Are you currently the Weber County attorney?

3 A. Yes.

4 Q. Do your duties currently involve supervision of
5 the civil department and the criminal department?

6 A. Yes.

7 Q. What role, if any, do you play in connection
8 with the funding of criminal defenses for indigent
9 defendants?

10 A. I don't play a very direct role most of the
11 time. The County Commission funds our defense services.
12 Do you mean on a case-by-case basis or the overall?

13 Q. Yes. I mean, I saw your name on a lot of
14 emails so I know you had some role, at least with respect
15 to the Lovell case.

16 A. Yeah.

17 Q. But I kind of wanted to start off more
18 generally to see if there's a general function and then
19 narrow it to Lovell.

20 A. Yeah. So I'm involved and aware of the overall
21 contracts that we have with our public defenders. I
22 don't usually involve myself in the decisions in who gets
23 a contract, that sort of thing. Is that what you're
24 asking?

25 Q. I don't know what your role is. So I'm asking

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1 for anything that -- I guess that you've done or maybe
2 done more than once in connection with the funding of
3 criminal defenses for indigent defendants.

4 A. So as county attorney, it's pretty limited. I
5 used to do essentially what Bryan Baron does when I was
6 in the civil department, so I had a lot more involvement
7 in the day-to-day goings-on. As county attorney, my role
8 is quite limited. I leave that to the civil division, at
9 least at the trial level. In the Lovell case, I was
10 involved to some degree where -- primarily where Bryan
11 asked my opinions or involvement in the case because it
12 was on appeal so I didn't feel it was the same concerns
13 that we have at the trial level.

14 Q. What concerns at the trial level were you
15 referring to?

16 A. So at the trial level we often have requests
17 for expert witnesses and things like that. Statutorily
18 at the trial level an indigent defense counsel is
19 required by statute to make a motion whenever they are
20 seeking a defense resource in excess of \$500, and -- I
21 think I lost my train of thought. What was I --

22 Q. You wouldn't be the first one.

23 MS. PORTER: Can I have the question back,
24 please.

25 (The previous question was read by the court

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1 reporter.)

2 THE WITNESS: Oh, the concerns of the trial
3 level. So those are the concerns. Years ago when I was
4 essentially in Bryan's position, we had some cases come
5 up where defense counsel had raised the issue that they
6 felt there was a conflict for the prosecution to be
7 involved in decisions that were made. So they are
8 statutorily required to make these motions, but they
9 didn't want the prosecution responding. So we set up
10 what we'd call the "Chinese wall" at that time so only
11 the civil department would handle those motions for
12 indigent resources.

13 Q. (By Ms. Porter) And that Chinese wall is not
14 in place with respect to appeals?

15 A. Correct. And, in fact, I don't know that I've
16 ever had the issue come up on appeal again because our
17 office is not ordinarily handling the appeal. It's the
18 AG's office.

19 Q. Now, if a case is -- or if a conviction is
20 reversed on appeal and goes back to trial, does Weber
21 County then recuse itself?

22 A. Does Weber County recuse itself altogether?

23 Q. Well, let me back up and ask that in maybe a
24 more sensible way.

25 The reason the Chinese wall doesn't exist with

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1 respect to appeals is because the county attorney doesn't
2 handle the appeals, the State of Utah does, right?

3 A. Correct.

4 Q. If a case comes back from the Supreme Court,
5 like let's say a conviction is reversed or overturned,
6 then what would the policy be then? Because you've been
7 hearing about things on appeal and now you are, in fact,
8 prosecuting at the trial court level.

9 A. So Lovell, for instance, came back to be tried
10 again and I didn't make any of the decisions in the
11 underlying trial portion, which, again, was just on the
12 sentencing phase. It wasn't the guilt or innocence
13 phase. But to the extent there were requests made for
14 indigent resources, I did not involve myself in those,
15 but our office certainly did.

16 Q. So when you say you weren't -- you did not
17 involve yourself or you were not involved in those, are
18 you saying that you were not consulted in any way on
19 those?

20 A. Correct.

21 Q. Were you kept apprised of any of those? I
22 mean, for example, when I GRAMA these things, which I
23 would be doing, are you saying you're not going to be
24 cc'd on any of those communications?

25 A. Not necessarily. I don't recall every request

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1 that was made. But occasionally defense counsel will not
2 see it necessary to have a Chinese wall. They'll make
3 motion. It's public. It's in the press and everything
4 else. I wouldn't have weighed in. I wouldn't have made
5 the decision on that, but I would have been aware of some
6 of those kinds of things. And certainly once experts
7 were retained and testified and that sort of thing, yes,
8 I knew what was going on and we might have had
9 discussions about how that was going, but I didn't make
10 any decisions on their hiring or --

11 Q. Did you have any involvement in any
12 decision-making -- let me stop that and try to rephrase
13 it. I'm hoping that maybe we can cut this down a little
14 bit, so let me try to ask it in a sensible way.

15 At some point, did you become aware that Sam
16 Newton was requesting more funds in connection with the
17 Doug Lovell representation?

18 A. Yes.

19 Q. Did you have any involvement in the
20 decision-making with respect to responding to those
21 requests?

22 A. Yes, I would say I did. I had discussions with
23 Bryan. I had discussions with Dave about some of those
24 requests for additional funds, yes.

25 Q. Let me ask you to look at what was previously

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1 marked in Mr. Wilson's deposition as Exhibit-1. You'll
2 probably have to go to the bottom of the stack there.

3 A. Okay.

4 Q. Would you look at Exhibit-1 and let me know
5 when you're ready for a question?

6 A. I have Exhibit-1. Did you want me to read it
7 first?

8 Q. It's up to you. I can ask you the question --

9 A. Why don't you ask and I'll see if I can --

10 Q. Some people like to do it differently, but
11 that's fine.

12 Okay. So do you see that at the bottom of the
13 first page of Exhibit-1 that this is -- the first email
14 in this string is from Sam Newton dated July 28, 2016?

15 A. First email is from Sam, did you say? Yes,
16 uh-huh.

17 Q. So let me ask you to turn to the second page of
18 Exhibit-1, the second paragraph. And it says: "Lovell
19 is in a place right now where he says he would be willing
20 to withdraw his appeal if the state would agree to a new
21 penalty phase. He would waive all of his guilt phase
22 issues and we could proceed to the latter half of the
23 case."

24 A. Okay.

25 Q. And in response to this email, I see that you

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1 asked Bryan Baron, Dave Wilson, and some others to have a
2 meeting about this as soon as possible. Do you see that?

3 A. Is that in this email chain?

4 Q. Yes.

5 A. Let's see. Yes.

6 Q. Okay. And then you said you wanted Dave Wilson
7 to be there, Chris Shaw, Bryan Baron, and yourself?

8 A. Yes.

9 Q. And I apologize. I don't remember. Who was
10 Chris Shaw?

11 A. Chris Shaw was the prosecutor. He and Gary
12 Heward.

13 Q. So he was the prosecutor in the -- if there
14 had -- if this offer had been accepted about giving
15 Mr. Lovell a new jury on the penalty phase, Mr. Shaw
16 would have been involved in that prosecution or that
17 proceeding?

18 A. Correct.

19 Q. Did have you any reservations about inviting
20 him to this meeting at which something would be discussed
21 that he would have direct involvement with?

22 A. I did not.

23 Q. Okay. Did that meeting occur?

24 A. I assume that it did, but I honestly don't
25 remember if it did.

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1 Q. Do you remember any discussions in which you
2 participated about Lovell's offer to waive his appeal if
3 he could just have a new jury in the -- you know, another
4 crack at a jury in the penalty phase?

5 A. I don't remember them with any specificity. I
6 only vaguely remember that that was an issue.

7 Q. Is it your understanding that this offer was
8 turned down?

9 A. Yes.

10 Q. Do you know any reasons for that?

11 A. I can't say that I recall specifically, no.

12 Q. Did you understand from this email that if the
13 offer was accepted, that Mr. Newton would no longer have
14 to do the appeal that he had been hired to do?

15 A. That would have been my understanding, yes. I
16 think he said that he would withdraw the appeal.

17 Q. Let's see. Can you please look at deposition
18 Exhibit-2.

19 A. Okay.

20 Q. Again, this was marked as 2 in the deposition
21 of Mr. Wilson. Do you remember the seeing the emails
22 that are contained within Exhibit-2?

23 A. Yes.

24 Q. Okay. In the email from Mr. Baron, he states
25 that he would like to sit down with you and Mr. Wilson

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1 and "discuss how you would like to handle the inevitable
2 request to exceed the contract cap." And this is on
3 December 5th of 2016. Did that sit-down occur?

4 A. I can't remember specifically. It probably
5 did. But I honestly don't remember if we sat down
6 together or what.

7 Q. Do you remember any conversations with
8 Mr. Baron and/or Mr. Wilson regarding the subject matter
9 of Exhibit-2?

10 A. I remember having discussions about the fact
11 that he was likely to exceed the cap, but I don't
12 remember specifically what was said.

13 Q. What about generally?

14 A. Generally, I think we referred back to the
15 contract and what the contract said, that it said that
16 Mr. Newton could ask for additions if he were to provide
17 an explanation for them. I think that would have been
18 our direction at the time, would be to just ask that he
19 supplement any requests with an explanation for them.

20 Q. Did you draft any communications to Mr. Newton?

21 A. Not that I can recall.

22 Q. Did you have any direct communication with
23 Mr. Newton of any kind between December 5th of 2016 and
24 when he withdrew?

25 A. I don't recall having any direct conversations

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1 with him, no.

2 Q. Let me ask you to look at what was marked as
3 Exhibit-3 to Mr. Wilson's deposition. And is that Weber
4 County 789?

5 A. Yes.

6 Q. I failed to write it. Do you remember
7 receiving the emails that are contained within Exhibit-3?

8 A. Let's see. Yeah, I don't remember
9 specifically, but I guess generally. It's been a couple
10 of years.

11 Q. Do you remember having a discussion with either
12 Mr. Baron and/or Mr. Wilson about Mr. Newton's request
13 for additional funding?

14 A. I do remember having discussions about that
15 generally. I can't remember exactly when and precisely
16 what was said.

17 Q. And I don't have to have exact and precise
18 memories. I'll take the gist or the general memories.

19 A. Sure.

20 Q. So generally, do you recall anything about
21 discussions in response to this March 7, 2017, email from
22 Mr. Newton?

23 A. And this is the one where he's saying that the
24 Supreme Court had issued the order remanding Doug
25 Lovell's case for further proceedings in the trial court

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1 related to ineffective assistance of counsel.

2 Q. Often referred to as the 23B?

3 A. The 23B. So, yes, I do remember having
4 discussions about the 23B motion. What is it that you
5 want to know about that?

6 Q. I want to know generally what was said during
7 those discussions.

8 A. Okay. I believe we would have talked about --

9 Q. I'm going to stop you. The "would have" -- "I
10 believe we would have discussed," is going to be messy on
11 the record. If you have a memory, then it can be general
12 and you can tell me. If you're just saying, "well, I
13 think I" or "I would have done this or that," it doesn't
14 really help anybody.

15 A. Okay. I just don't remember specific to this
16 email. If I may speak in general terms, the discussions
17 we had about the 23B remand, I'm happy to do that. Is
18 that what you would like me to do?

19 Q. Well, I need to tie it to the March 7th. And
20 if you're unable to, sort of, break out discussions you
21 had --

22 A. Let me read this a little closer and see if it
23 refreshes my memory. Okay. I know that we talked about
24 the fact that he said that he has -- he said he attended
25 the bar disciplinary proceeding against Mr. Young. I

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1 know we talked about whether billing for that was
2 appropriate. We didn't think it was. And at some point
3 I know we received billing for his attending bar
4 disciplinary actions against Mr. Young. We had that
5 discussion.

6 We talked about how much time it would cost and
7 whether he had made a sufficient explanation for the
8 additional hours that he needed.

9 Q. And he didn't include an estimate of hours in
10 this particular email, correct?

11 A. No.

12 Q. So what hours was it that you were wondering if
13 he had sufficiently justified?

14 A. I think we were wondering -- sorry. We were
15 wondering generally whether he had provided in some other
16 letter or communication the number of hours he was
17 requesting.

18 Q. Okay. Did you do anything to determine what
19 role Mr. Newton had played with the disciplinary
20 proceedings against Mr. Young?

21 A. I did not do anything to determine that. That
22 was brought to my attention.

23 Q. By?

24 A. Bryan or Dave.

25 Q. And what were you told?

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1 A. I was told that he had submitted a bill for
2 some work in excess of the \$75,000 cap that included
3 hours billed for attending and participating in the
4 disciplinary proceedings before the bar in Mr. Young's
5 case.

6 Q. And what were you told with respect to what
7 role he had played?

8 A. I was told that he had participated in that
9 proceeding, I think as a witness, as I recall. But just
10 that he had participated in those proceedings.

11 Q. And that would have been later, right? Because
12 that's -- you hadn't received a bill for that as of March
13 7th, correct?

14 A. Yeah. I wouldn't have had that discussion
15 until I received the bill.

16 Q. Did you have anything to do with authorizing
17 payment of invoices received from Mr. Newton on the
18 Lovell case?

19 A. I'm sorry. Say again.

20 (The previous question was read by the court
21 reporter.)

22 THE WITNESS: I had discussions about some of
23 the invoices. I did not ultimately authorize the
24 payments. That was done by county commissioners.

25 Q. (By Ms. Porter) What was that process for

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1 county commissioners to authorize payments on
2 Mr. Newton's invoices?

3 A. They would receive invoices and the county
4 commissioners -- primarily Commissioner Harvey, who was
5 the county attorney liaison, would ask Bryan, I think
6 first and foremost, whether he had looked at that and
7 whether he thought those were appropriate bills.

8 Q. And in what context? I mean, like a work
9 session or some executive session or what?

10 A. I don't know for sure whether it was over the
11 phone or whether they met in person.

12 Q. Did you ever conduct any review to determine --
13 strike that.

14 At any point did you become aware that
15 Mr. Newton had not received any payment from the county
16 in the year 2017, except for an inadvertent payment? I
17 mean, for the year 2017.

18 A. I'm not aware that he was not paid anything in
19 2017.

20 Q. Except for the -- let's back it up so that --
21 let's narrow it down. I'll make my question --

22 A. I apologize. I don't remember the timelines
23 exactly.

24 Q. All right. At any point, did you become aware
25 that Mr. Newton was alleging that he had not been paid

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1 for any of his 2017 time except for one inadvertent
2 payment in March, approximately March of 2017?

3 A. I do not remember that specifically, no.

4 Q. So this will go without saying then, but -- so
5 you never did anything to determine whether or not
6 Mr. Newton's invoices were being held up?

7 A. No.

8 Q. Did you ever have any conversations with
9 Mr. Baron and/or Mr. Wilson about the frequency with
10 which Mr. Newton was communicating with his client?

11 A. Yes.

12 Q. And is there any way you can help pinpoint that
13 time?

14 A. I can't pinpoint the time.

15 Q. If I were to represent to you that this was
16 brought to Mr. Newton's attention in 2016 and then again
17 in 2017, would you have any reason to dispute that?

18 A. No.

19 Q. So do you believe that you were involved in the
20 discussions about that issue both times or just one time?

21 A. Both times.

22 Q. So let's go with the earlier of the two, and
23 the record will reflect when that was.

24 A. Sure.

25 Q. How did that subject arise the first time,

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1 which would have been in 2016?

2 A. So it would have arisen from Sam's billing. I
3 would assume that's the first place it was seen. It was
4 brought to my attention, as I recall, by Bryan. And he
5 would have seen that in the billing and would have asked
6 questions as to why he was spending so much time visiting
7 with his client on an appeal case that would have been
8 primarily a legal argument.

9 Q. And who was telling you that it would have been
10 primarily a legal argument?

11 A. Well, appeals generally are that.

12 Q. Well, this is a very different appeal. I mean,
13 did you just assume that this was going to be a primarily
14 legal argument, or did you do any investigation to
15 determine if that was, in fact, true?

16 A. I didn't do any investigation.

17 Q. Okay. Is it a fair statement that you
18 delegated most of the legwork or the investigation
19 relating to Sam Newton and the Lovell case to Mr. Baron?

20 A. Yes.

21 Q. Did you ever do any independent review of
22 Mr. Newton's bills, for example?

23 A. I looked at the bills. If by review you mean
24 did I contact witnesses or things like that, no.

25 Q. Well, I'll give you an example and ask you if

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1 you did something about this.

2 A. Sure.

3 Q. At one point Mr. Newton was told by the County
4 that a majority of the witnesses that were going to be
5 called in a 23B remand proceeding were unlikely to have
6 helpful information, or words to that effect.

7 A. Okay.

8 Q. Did you do anything to verify whether that was
9 true or where Mr. Baron was coming up with that notion?

10 A. No.

11 Q. Would it have concerned you if Mr. Baron was
12 relying on the prosecutor to form that opinion?

13 A. No.

14 Q. Why not?

15 A. Because, again, the case had already been
16 handled from the prosecution end, and I think the
17 prosecutor would have had the best knowledge of the facts
18 and background of the case. So it wouldn't surprise me
19 that Mr. Baron would have spoken with him.

20 Q. At one point Mr. -- I believe that Mr. Newton
21 was told that on remand this proceeding should only take
22 a week. I mean, the exact words will be in the record so
23 if I'm off a bit, I apologize.

24 A. Who told him?

25 Q. I believe that was in an email from Mr. Baron.

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1 And I can actually dig up some of these things, but I'm
2 seeing if we can get out of here.

3 A. Sure. You bet. I'm just making sure I follow
4 you.

5 Q. And anything that's in the record, obviously,
6 is going to trump anything that I might misstate in some
7 way?

8 A. Of course.

9 Q. Okay. So let me ask you this question: Did
10 you ever do anything to determine how long the 23B remand
11 proceedings would be expected to take?

12 A. Yes, at a very cursory level. Initially he had
13 submitted a bill that said it would take 6- to 700 hours.
14 I just did some initial math. And in my mind at \$150 an
15 hour, what Sam was proposing was to work on this project
16 every minute of every eight-hour working day, five days a
17 week for nearly four and a half months. That raised a
18 red flag with me. It didn't sound reasonable. And so I
19 had the discussion with Mr. Baron about whether that
20 appeared to be reasonable, and our conclusion was Sam had
21 not provided the basis for that request.

22 Q. You said 600 to 700. Did you mean to say 500
23 to 700?

24 A. No. I mean 600 to 700 is what I recall. I may
25 be wrong, but that's my recollection.

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1 Q. All right. Well, we're both in the same boat
2 that if there's something in writing that clears it up
3 for us --

4 A. Sure.

5 Q. -- will make it easier for us.

6 Do you know how much has been paid to Colleen
7 Coebergh so far on the Lovell case?

8 A. I do not.

9 Q. Have you seen anything figures with respect to
10 payments to Ms. Coebergh?

11 A. No.

12 Q. Did you have any involvement in bringing her on
13 board or negotiating her contract?

14 A. I had discussions with Bryan and probably Dave
15 about who had responded to the RFP, who was available,
16 were they qualified, would they do it for the -- would
17 they accept the contracted amount.

18 Q. Let me ask you to look at Exhibit-5 previously
19 marked in Mr. Wilson's deposition. The second email from
20 the top, Mr. Wilson says: "I think we should move
21 forward with an RFP for appellate services including
22 conflicts." That sentence referred to all appellate work
23 that Mr. Newton was doing?

24 A. I'm sorry. I'm looking for which -- referring
25 to Exhibit-5. Oh, "That works for me. I think we should

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1 move forward with an RFP for appellate services including
2 conflicts." I'm sorry. What was the question?

3 Q. You understood that reference to be to
4 appellate work that Mr. Newton -- or all appellate
5 contracts that Mr. Newton had; is that true?

6 A. Yes. I don't remember this at the time, but
7 that's what it says.

8 Q. And that RFP did not actually end up happening,
9 correct?

10 A. It did not. At least not at that time.

11 Q. Mr. Newton's contract wasn't terminated until
12 October of 2017, correct?

13 A. I don't remember exactly. But if that's what
14 the record reflects, yes.

15 Q. Did you have any role in making the decision to
16 terminate Mr. Newton's contracts in, I'll say, October of
17 2017? Was it is October or September? It was October,
18 isn't it?

19 MS. VANORMAN: I think it was October.

20 MS. PORTER: I think it was.

21 THE WITNESS: That's when it was terminated?

22 MS. PORTER: Yeah. Now I'm going to look
23 because now I'm --

24 THE WITNESS: Sure.

25 MS. VANORMAN: How about you say "the fall"?

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1 MS. PORTER: Well, now I'm just wondering if
2 I'm -- yeah, it's going to be October. Let me reask the
3 question.

4 Q. (By Ms. Porter) Did you have any involvement
5 in the decision-making process as to the termination of
6 Mr. Newton's contracts in the fall of 2017?

7 A. Yes.

8 Q. What role did you have?

9 A. I had discussions with Bryan and Dave and
10 possibly Jim Harvey.

11 Q. And why do you say possibly Jim Harvey?

12 A. Because I don't remember for sure whether he
13 was a part of those discussions or not.

14 Q. Who was the final decision-making authority
15 with respect to the decision to terminate Mr. Newton's
16 contracts?

17 A. The County Commission.

18 Q. The commission as a body, or did Mr. Harvey
19 have authority on his own to terminate the contract?

20 A. I think the commission as a body ultimately. I
21 don't believe they would have had to hold a County
22 Commission meeting for that, but it would have to be a
23 commission decision. But, again, Jim was our point
24 commissioner on these discussions because he was assigned
25 to our office.

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1 Q. Did you have any discussions with Mr. Baron in
2 which Mr. Baron claimed that Sam Newton had made
3 misrepresentations to the media?

4 A. Yes.

5 Q. Did Mr. Baron identify the misrepresentations
6 to you?

7 A. I spoke with Mr. Baron about the
8 misrepresentations and subsequently Mr. Baron told me
9 that he had felt that the exact words were not
10 necessarily incorrect, but that the -- the suggestion
11 from the articles were incorrect.

12 Q. And with respect to or -- I've already
13 withdrawn more questions this afternoon than the entire
14 morning, but I'm tired.

15 Did Mr. Baron tell you that Mr. Newton had made
16 misrepresentations to the court?

17 A. Yes.

18 Q. And did he identify those misrepresentations?

19 A. He did.

20 Q. What did he tell you?

21 A. He told me that there were at least two
22 misrepresentations. One was a misrepresentation about
23 investigative resources which were provided in the
24 contract. He told me that Mr. Newton had told the Court
25 that the County refused to provide him investigation

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1 resources, and that that was false. He also told me that
2 Mr. Newton had made a statement in a hearing with Judge
3 DiReda that the County had flatly refused to pay anything
4 more than the \$15,000 or the 100 hours in connection with
5 the 23 remand motion and associated issues.

6 Q. And did Mr. Baron show you documentation of
7 those two misrepresentations he was claiming?

8 A. Yes.

9 Q. What did he show you?

10 A. He showed me -- well, let me take that back.
11 In at least two additional places, he showed me where the
12 misrepresentations were made. He told me that the
13 misrepresentation was made in the hearing with Judge
14 DiReda. So he just told me that, he didn't show me a
15 transcript or something like that.

16 Q. And I'm sorry. What two additional places are
17 you referring to?

18 A. So there was another in -- where he made that
19 in response to the attorney general's motion to -- I
20 can't remember exactly the term, but it was a motion
21 essentially to clarify whether Sam had a conflict or
22 whether he could go forward on their cases based on, I
23 think, primarily his health issues that he had put into
24 the record. He also made the assertion that the County
25 would not give him any more than \$15,000 for the 23

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1 remand issues in his motion to withdraw in Weber County.

2 Q. And did you review those documents yourself?

3 A. Yes.

4 Q. Did you also read the County's reply on the
5 motion to withdraw?

6 A. I don't remember.

7 Q. Let me ask you more directly: At some point,
8 did you become aware that some of the emails upon which
9 Weber County was relying to claim that there had been a
10 misrepresentation had not been sent to Mr. Newton until
11 after he had filed the alleged misrepresentation?

12 A. So that -- if I understand you correct, you're
13 saying the emails that were exchanged amongst Weber
14 County identifying those were not sent to Mr. Newton; is
15 that correct?

16 Q. No. I'll just indicate, have you ever come to
17 learn -- and I'm not interested in anything you have ever
18 spoken to with your attorney about any subject. But have
19 you ever come to learn that as of the date upon which an
20 alleged misrepresentation was made by Mr. Newton, some of
21 the emails to which the county later pointed had not even
22 been sent yet?

23 A. I don't believe I'm aware of that timing.

24 Q. Okay. Did Mr. Baron identify any other
25 misrepresentations to the Court when you were having that

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1 conversation or those conversations with him?

2 A. Did he -- I don't think he identified them to
3 the Court. My recollection is the Court didn't give him
4 an opportunity to respond.

5 Q. And I apologize. My wording is getting really
6 sloppy.

7 I meant during your discussions with Mr. Baron,
8 did Mr. Baron identify any other alleged
9 misrepresentations that he believed Sam Newton had made
10 to the Court, other than what you have described for us?

11 A. That he made to the Court?

12 Q. Yes. You've mentioned --

13 A. Yes. I think I said -- don't know that he made
14 any other mention to the Court of other
15 misrepresentations. We thought there were other concerns
16 with his billing and things, but I don't know that that
17 went to the Court, if that's what you're asking.

18 Q. Well, Mr. Newton was fired for allegedly
19 making misrepresentations to the media and to the Court,
20 which had allegedly harmed the County, correct?

21 A. Correct, in part.

22 Q. Well, have you seen the termination letter to
23 Mr. Newton?

24 A. I have, yes.

25 Q. It doesn't mention any other reason, does it?

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1 A. No, it does not. But that doesn't mean there
2 weren't further reasons. It only means that the letter
3 identified some of the reasons.

4 Q. Did it say "these are some of the reasons"?

5 A. No.

6 Q. Did you have a chance to look over the letter
7 of termination that went to Mr. Newton before it went
8 out?

9 A. Yes.

10 Q. All right. Let me -- are we looking at
11 Exhibit-6? Or if not, would you please?

12 A. Yes.

13 Q. Okay. Exhibit-6, which was marked in
14 Mr. Wilson's deposition contains an email string. And
15 you're welcome to look at any part of it, but I'm just
16 going to ask you a little bit about the draft email that
17 Mr. Baron was sending to you for review.

18 A. Okay.

19 Q. It's on the first page. Are you with me?

20 A. Yes.

21 Q. Okay. The third paragraph states -- of the
22 draft says: "The \$75,000 that was provided to you
23 initially should be sufficient to cover the reply brief,
24 so we are not offering additional compensation for that."

25 Was that consistent with your understanding at

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1 that time?

2 A. Yes.

3 Q. And, in fact, Mr. Newton was definitively told
4 that he would not be offered any additional compensation
5 for the reply brief period, correct?

6 A. No, incorrect.

7 Q. Can you identify for me any email in which
8 Mr. Newton was ever told that he could actually apply for
9 more money for the reply brief?

10 A. I don't have them in front of me and I don't
11 know, to tell you the truth, whether they were emails
12 between Bryan and me. But I believe they were emails
13 between Bryan and Sam where they talked about an
14 additional \$22,000 that could be -- at least that was the
15 bill received from Sam. There was some discussion about
16 how much of that was appropriate. But there was clearly
17 an understanding on Sam's part that he was applying for
18 additional funning. I believe he was paid 18,000 in
19 addition. And that had to do with, I believe, the
20 drafting of the 23B motion. So there were subsequent
21 discussions to this email in which he discussed
22 additional pay and received additional pay.

23 Q. So was it your understanding that Mr. Baron was
24 supposed to convey to Sam Newton that he could apply for
25 additional funding attributable to extra work on the

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1 reply brief?

2 A. I think that was stated in the underlying
3 contract.

4 MS. PORTER: Would you read my question back,
5 please.

6 (The previous question was read by the court
7 reporter.)

8 THE WITNESS: Did I misunderstand?

9 MS. PORTER: I don't believe you answered my
10 question.

11 THE WITNESS: Okay. Try again.

12 (The previous question was read by the court
13 reporter.)

14 THE WITNESS: I don't know that it was his
15 obligation to do so, but it's my understanding that he
16 did tell him that he could ask for additional money,
17 which was consist with the contract itself.

18 Q. (By Ms. Porter) Additional money for the reply
19 brief?

20 A. Yes.

21 Q. Would you be surprised if Mr. Baron never did
22 that?

23 A. No, not really, because I might be talking
24 about a different brief. I may be confused about which
25 brief you're talking about.

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1 Q. I'm just talking about the reply belief on
2 appeal. You know what that is, right?

3 A. Not the 23B.

4 Q. Right. Have you done any appellate work?

5 A. No.

6 Q. Have you ever written an appellate brief?

7 A. Yes.

8 Q. On how many occasions?

9 A. Sorry. That didn't make sense. Two that I can
10 think of that I have personally written a brief to the
11 appellate court.

12 Q. What types of cases were they?

13 A. Land use.

14 Q. Have you ever written any criminal appellate
15 briefs?

16 A. No.

17 Q. Have you ever written any appellate briefs in a
18 death penalty case?

19 A. I haven't written any other appellate briefs.

20 Q. But you know what a reply brief is?

21 A. I do.

22 Q. Did you understand that as part of the appeal
23 for Mr. Lovell that there would be an initial brief by
24 the appellate, then the state would file a brief on
25 behalf of the prosecution, the appellee brief, and then

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1 there would be a reply brief?

2 A. I'm aware of that, yes.

3 Q. Okay. All right. I want to make sure that you
4 understand what I'm saying when I refer to the reply
5 brief.

6 A. I do understand. And I have misstated because
7 I was talking about the 23B motion. That's what Bryan
8 talked about. That's what the 22,000 was about. So
9 you're correct, I misstated. On the reply brief, I don't
10 remember any additional discussions that Bryan had or
11 emailed with Sam about that. I believe it was in the
12 contract that he could ask for more money so that was
13 available to him.

14 Q. So if Mr. Newton was told by the County that he
15 could not ask for more money for the reply brief, then
16 you're saying that is inconsistent with your
17 understanding of his contract?

18 A. Yes.

19 Q. Okay. Skip some of these -- I apologize. Some
20 of these we went over with Mr. Wilson. I probably should
21 have done this during the break. I apologize.

22 A. That's fine.

23 Q. Could you look at Exhibit-9 previously marked
24 in Mr. Wilson's deposition? If we look at the top of the
25 page of Exhibit-9, there is an email that Mr. Wilson told

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1 us that he sent on July 17, 2017, at 2:48 p.m. Do you
2 see that part of the page?

3 A. Is it the one in the middle?

4 Q. No.

5 A. Top one?

6 Q. The one at 2:48 p.m.

7 A. 2:48 p.m., yes, it's at the top.

8 Q. Yeah, the top one. In the middle of that
9 paragraph, Mr. Wilson makes the statement: "All of this
10 for a defendant who admitted killing a person and then a
11 witness. The world must laugh at our stupidity."

12 When you read that, did you consider removing
13 Mr. Wilson from the -- from having any role with respect
14 to the funding in the Lovell case?

15 A. No.

16 Q. Did you ask Mr. Wilson what he was referring to
17 when he said "the world must laugh at our stupidity"?

18 A. No.

19 Q. What did you take that to refer to, if
20 anything?

21 A. I didn't give it a lot of thought.

22 Q. When you saw this email, did it cause you any
23 concern that Mr. Wilson's personal views about the death
24 penalty, at least relating to Doug Lovell, were
25 influencing his actions?

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1 A. No. I know Mr. Wilson. I've known him for
2 years. I know that he takes the Constitution and the
3 obligation of our office very seriously. I've had many,
4 many conversations with him. I didn't doubt for one
5 minute that he would do anything that would intentionally
6 or otherwise run afoul of his Constitutional obligations.

7 Q. Did he ever express disrespect for the Utah
8 Supreme Court to you?

9 A. No.

10 Q. Would you look at Exhibit-10. You're welcome
11 to look at any part of this exhibit, but at the very top
12 do you see that Mr. Wilson wrote: "So we have never
13 reached that point since the Utah Supreme Court doesn't
14 want this admitted murderer to die."

15 Do you remember seeing that at the time?

16 A. I do now.

17 Q. Okay. Did you receive this and see that on
18 July 17, 2017?

19 A. Yes.

20 Q. Did that statement raise any red flags with you
21 that maybe Mr. Wilson's personal views about the death
22 penalty as it relates to Mr. Lovell were influencing his
23 actions?

24 A. No. I didn't see anything in his actions that
25 was contrary to the course he should have taken at any

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1 given time.

2 Q. Did it cause you any concerns to see someone
3 involved in the decision-making process in a death
4 penalty appeal to use words such as "since the Utah
5 Supreme Court doesn't want this admitted murderer to
6 die"?

7 A. It did not cause me concern. It sounded like
8 Mr. Wilson was blowing off some steam.

9 Q. And it also sounded like he believed Doug
10 Lovell should be put to death, correct?

11 A. "So we have reached the point since the Utah
12 Supreme Court doesn't want this admitted murderer to
13 die." I think that expresses some frustration with the
14 Supreme Court. I don't think it maligns the Supreme
15 Court.

16 MS. PORTER: Could I have my question back,
17 please.

18 (The previous question was read by the court
19 reporter.)

20 Q. (By Ms. Porter) Isn't that how you interpreted
21 that language when you saw it, that among other things,
22 Mr. Wilson believe that Doug Lovell should be put to
23 death?

24 A. I don't know that that's exactly what you can
25 take from that, but I'll leave that up to you.

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1 Q. Did it at least raise some red flags with you?

2 A. It did not. Like I said, I've known Mr. Wilson
3 for many years. I've watched him in action. He's never
4 shown any actions that would give me any concern. He's
5 blowing off a little bit of steam here. I didn't think
6 it was that big of a deal.

7 Q. Please look at what was previously marked as
8 Deposition Exhibit-11, and I mean marked in Mr. Wilson's
9 deposition. Do you recognize Exhibit-11 as an email
10 string in which you sent an email to Mr. Baron and he
11 responded?

12 A. Yes.

13 Q. Okay. So you had read a ruling in State vs.
14 Rogers, and you had concluded from your review of that
15 that this -- that it included or reflected an instance of
16 Sam Newton's willingness to misrepresent facts?

17 A. Correct.

18 Q. Did you check with someone with more appellate
19 experience to see how common the language was that you
20 were relying on?

21 A. No.

22 Q. Did you check with anyone qualified in
23 appellate practice as to whether or not that case really
24 did reflect an instance of Sam Newton's willingness to
25 misrepresent facts?

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1 A. No. That was my opinion from reading the
2 decision.

3 Q. Your opinion based on --

4 A. Based on that decision alone.

5 Q. And no further investigation? Let me ask you
6 this.

7 A. I didn't raise it in the court or anything like
8 that. This was a comment amongst us, so, no, I didn't do
9 a lot of research. I don't typically write a brief when
10 I'm just offering an offhand comment to someone in my
11 office.

12 Q. Were you hoping that you could use State vs.
13 Rogers to justify terminating Sam Newton's contract on a
14 pretext that he makes misrepresentations to court?

15 A. No. There were no pretexts involved. We know
16 he's made misrepresentations to court.

17 Q. Did you do any double-checking to see whether
18 any misrepresentations had been made by Weber County to
19 the Court in the Doug Lovell case?

20 A. No.

21 Q. Have you checked recently to see if there have
22 been alleged misrepresentations by Mr. Lovell's current
23 counsel?

24 A. No.

25 Q. Are you aware of any of the things that have

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1 happened in the Doug Lovell case over the past four or
2 five months?

3 A. No.

4 Q. Have you asked anyone to please monitor the
5 Doug Lovell case to make sure that Doug Lovell's new
6 attorney doesn't make any misrepresentations to the
7 court?

8 A. Yes.

9 Q. And in what context did you make that request?

10 A. Just speaking with Bryan informally.

11 Q. Has Mr. Baron updated you on any of the
12 goings-on in the Lovell case in the past four or five
13 months?

14 A. Mr. Baron has not told me of any
15 misrepresentations, no.

16 Q. Has he said anything to you about what's going
17 on in the Lovell case?

18 A. We did discuss it briefly. I'm trying to
19 remember what he told me. It didn't stand out
20 particularly. I asked him what the status was and I
21 don't remember.

22 Q. So Mr. Baron hasn't raised any red flags with
23 you about anything that's gone on in the Lovell case in
24 the last five months; is that a fair statement?

25 A. That is a fair statement.

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1 (EXHIBIT-16 marked.)

2 THE WITNESS: Is this 16 for me that we're
3 looking at?

4 Q. (By Ms. Porter) Yes. Please look at
5 Exhibit-16. And is that an email that you sent on
6 August 24, 2017?

7 A. Apparently, yes.

8 Q. And that's on that same State vs. Rogers case,
9 right?

10 A. Let's see. The subject is State vs. Rogers. I
11 say: "Congratulations once more on your excellent
12 lawyering."

13 Q. Why didn't -- why didn't you ask those
14 attorneys, since you were emailing them anyway, whether
15 they believed that this opinion reflected another -- an
16 instance of Sam Newton's willingness to misrepresent
17 facts?

18 A. Because the court stated essentially that.

19 Q. And you -- and you didn't -- all right. That
20 was your only reason for not asking the actual lawyers on
21 the other side?

22 A. Like I said, it was sort of in passing. I
23 didn't intend to write an additional brief or something.

24 Q. Well, you're intending to use it as -- to try
25 to bolster your misrepresentation defense in this case,

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1 right?

2 A. It's a very small part of it, perhaps.

3 Q. And, actually, after supposedly forming this
4 opinion that the Court was saying that Sam was
5 misrepresenting facts, did you ask anyone to go back and
6 look at any of Sam Newton's other briefings to make sure
7 that he hadn't been misrepresenting facts in any other
8 opinions?

9 A. No. We're a busy office. We have a lot of
10 things to do. We can't delve into everything.

11 Q. Well, wouldn't it have been important if the
12 lawyer representing the defendant that you guys had been
13 paying had been making misrepresentations of fact?

14 A. We already knew he was making misrepresentation
15 of fact.

16 Q. Of the ones that you described earlier, right?

17 A. Correct.

18 Q. And, by the way, you understood that
19 misrepresentation of future intent and opinions and
20 characterizations of -- well, how do I word that? Let me
21 back that up. Never mind. I'll skip that.

22 At some point, did you become aware that there
23 was a deadline for replacing Sam Newton in the Lovell
24 case?

25 A. Yes.

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1 Q. And did you become aware that the court had
2 ordered that certain documents be filed by Mr. Lovell's
3 new counsel by a certain date?

4 A. I don't remember specifically, but that stands
5 to reason.

6 Q. Did you become aware that Mr. Baron had --
7 having not heard from counsel, went ahead and filed those
8 documents himself without authority from counsel?

9 A. I'm not aware of that.

10 Q. Would that cause you any concern if the emails
11 reflected that that happened?

12 A. I guess it depends on what the documents are
13 and what the obligations were. I really don't know
14 exactly what we're talking about.

15 Q. So it wouldn't bother you if he filed something
16 that you consider not important without authority? Is
17 that what you're saying?

18 A. Without authority?

19 Q. Yeah.

20 A. Well, I guess it depends on what we're talking
21 about. If he files some innocuous document, that
22 wouldn't bother me too much. If he filed something
23 meaningful without authority, that would bother me.

24 Q. I apologize. I think I asked you this and I
25 just don't remember. But do you have any clue whatsoever

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1 about how much Ms. Coebergh has been paid to date?

2 A. I do not know.

3 Q. I think I did ask that. I apologize.

4 Did Sam Newton ask the County to give him
5 unlimited funds?

6 A. Not directly.

7 Q. By the way, what does "not directly" mean?

8 A. Means the implication, I think, of submitting
9 requests for 700 hours that aren't very well supported,
10 suggesting in the newspapers that he couldn't put food on
11 the table if we wouldn't pay him what he was asking for,
12 suggesting that the County wasn't paying him and the
13 reason was for some sort of nefarious purposes, suggested
14 that he wanted nobody to ask him any questions about
15 money anymore which suggested that he wanted an open
16 checkbook. That was a concern.

17 MS. PORTER: Could I have that answer back,
18 please.

19 (The previous answer was read by the court
20 reporter.)

21 Q. (By Ms. Porter) What are you referring to when
22 you say that Sam Newton, I guess, suggested or said he
23 didn't want anyone to ask him any questions anymore?
24 What are you referring to that is the basis of that
25 statement?

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1 A. I'm suggesting he was unhappy with the County
2 requiring him to justify his requests for money.

3 Q. That's not what you said, though, the first
4 time. You said that he had suggested that he did not
5 want anyone to ask him any questions anymore. Were you
6 just sort of using hyperbole?

7 A. I'm talking about money. I'm talking about
8 money.

9 Q. You said that he had suggested he didn't want
10 anyone to ask him any questions anymore. Do you have any
11 factual basis for the misrepresentation that you just
12 made?

13 A. Just what I just told you. It was -- I'm not
14 telling you that he said that in exactly the words. I
15 think I explained it adequately in my first response.

16 Q. Is it a fair statement that you're just taking
17 what he said and, sort of, either imputing an intent to
18 him or interpreting what he's saying?

19 A. I'm interpreting what he's saying.

20 Q. And, of course, he had the same right to do
21 that with respect to what the County was saying, right?

22 MS. VANORMAN: Objection. Calls for
23 speculation. Lack of foundation. Go ahead.

24 THE WITNESS: I'm sorry. What did you say?

25 MS. PORTER: Can I have the question back,

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1 please.

2 (The previous question was read by the court
3 reporter.)

4 Q. (By Ms. Porter) Mr. Newton had the same right
5 to interpret what the County was saying, that you just
6 did in this deposition?

7 A. Sure. He's got a right to say what he wants or
8 to interpret how he wants.

9 Q. Now, you mentioned 700 hours again. Did you
10 mean to say 500 to 700, or are you just going to stick
11 with the 700?

12 A. It may have been 5- to 700, but I believe his
13 outside was 700, so I used that as an example.

14 Q. Well, you didn't say it was an example. You
15 said it was something he had --

16 A. Well, he did. He said -- whether it was 5- or
17 6- to 700, I'm fairly certain he did use the number 700.

18 Q. But if he said 500 to 700, do you believe it is
19 a fair interpretation for you to only mention the 700 and
20 not the 500? I'm curious how you pick and choose from
21 what he was saying.

22 A. Because that's the outside of what he was
23 asking. We had to evaluate whether that's what he was
24 really asking for, whether that was a request that he was
25 serious about. So I do a little basic math to say what's

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1 the outside that we're looking at here in order to advise
2 the County Commission on what it is he's requesting.
3 They would ask -- they're not lawyers -- is that
4 reasonable in my mind to suggest that he was going to
5 spend every minute of every eight-hour day, five days a
6 working week for nearly four and a half months doing
7 nothing but this one issue. Sounds a little outlandish.

8 Q. Have you looked at Ms. Coebergh billings?

9 A. No, I have not.

10 Q. Have you read any of the material where she
11 talks about how much time she has had to spend on this
12 case?

13 A. I have not.

14 Q. Is that something that you consider important
15 to do since you're saying that Mr. Newton's estimates
16 were so outlandish?

17 MS. VANORMAN: Objection as to relevance.

18 You can answer.

19 THE WITNESS: So if Bryan came to me and had a
20 concern, expressed that, and those were the same sorts of
21 things, I would have the same type of response.

22 Q. (By Mr. Porter) Did Mr. Baron ever raise an
23 issue with you about a case -- strike that.

24 I think earlier you mentioned that you had had
25 a chance to review the termination letter before it went

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1 out to Sam Newton. Do you recall making any suggested
2 changes to a draft or anything like that?

3 A. I don't recall doing that.

4 Q. Do you believe that your involvement in that
5 was simply reviewing a document and then not making any
6 suggestions on it?

7 A. Yes.

8 Q. Could you look at what was previously marked as
9 Exhibit-15 in Mr. Wilson's deposition. So Mr. Wilson
10 indicated that this was an email that he sent to you.
11 And is it fair to say that the impetus for this email was
12 a request from the Standard-Examiner for information
13 about how much the prosecution and defense of the Doug
14 Lovell capital murder case had cost?

15 A. Yes. There was a letter from Mark Shenefelt of
16 the Standard-Examiner to Dave that looks like he's
17 responding to me about that rather than to Mr. Shenefelt.

18 Q. And in response to -- or, excuse me, in
19 Mr. Wilson's email to you, the second sentence says:
20 "I'm not sure we will have such records without research
21 but it may be one we consider doing to help inform the
22 public of the costs of prosecuting and defending a
23 confessed murderer."

24 Did that sentence raise any red flags with you
25 about Mr. Wilson's feelings towards the death penalty, at

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1 least as it relates to Doug Lovell?

2 A. I don't think it's the death penalty so much
3 that he's concerned about. I think it's the process,
4 once again. He's obviously -- he's said it more than
5 once, he's referred to him as a "confessed murderer,"
6 which is factually correct. He is a confessed murderer.
7 This was a sentencing. That portion had been decided, so
8 it's factually correct.

9 Whether it's politically correct or whatever,
10 perhaps not. But it's factually correct. And I don't
11 think that it was a matter of he's concerned about the
12 death penalty, per se, so much as the process. Doug
13 Lovell had been tried 20 or so years before. It's been
14 going on for many, many years. I know that's a cause of
15 frustration, not only for Mr. Wilson, but some people in
16 general feel that that's problematic that the legal
17 system takes so long to accomplish things.

18 Q. And that's one of the considerations for -- in
19 introducing legislation to do away with the death
20 penalty?

21 A. Sure.

22 Q. Is it your testimony that you don't read
23 anything in that sentence to suggest that Mr. Wilson has
24 strong views about the death penalty?

25 A. I don't read that from that. I think it's more

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1 a concern with the process.

2 Q. And, of course, the process is a process that
3 had been directed by the Utah Supreme Court, correct?

4 A. Correct.

5 Q. Did it cause you any concern that Mr. Wilson
6 was using that type of wording in describing a process
7 that had been directed by the Utah Supreme Court?

8 A. No. I don't think it's inappropriate to
9 express some concern without overstepping that line and
10 indirectly maligning the Supreme Court or something like
11 that. It wasn't published publicly.

12 (EXHIBIT-17 marked.)

13 Q. (By Ms. Porter) Let me show you what's been
14 marked as deposition Exhibit-17, and I'll ask if that's
15 an email that you sent on February 6, 2018?

16 A. Yeah. Let me just read. Yes, I recognize
17 that. That is my email.

18 Q. What is the \$1.6 million comprised of? You're
19 not suggesting you paid \$1.6 million to defense counsel
20 annually, are you?

21 A. So I can't tell you right now. It's been a
22 while. I don't remember exactly what all that includes
23 or exactly how I arrived at that number.

24 Q. I'll take generally.

25 A. Yeah, so that would probably include our

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1 defense contract to pay all the public defenders as well
2 as appeals and experts' defense resources.

3 Q. And do you recall what you looked at in order
4 to come up with that figure?

5 A. I don't recall.

6 Q. If you wanted to recreate that figure or come
7 up with a figure now, what would you -- what kind of data
8 would you ask for?

9 A. I would ask for the amount that of all of
10 the -- if I were trying to come up with that same answer,
11 essentially?

12 Q. Right. If you were doing it right now, what
13 would you ask Mr. Baron or somebody else to provide to
14 you?

15 A. Probably look at all of the defense -- the
16 indigent defense contracts, appellate work, capital
17 defense, indigent defense resources outside of counsel.

18 Q. And I apologize, but what does that mean,
19 resources outside of counsel?

20 A. Experts, investigators, those kinds of things,
21 transcripts.

22 Q. And that information would -- where would you
23 get it from?

24 A. I would probably assign Bryan or someone else
25 to do it.

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1 Q. Do you happen to know which department or
2 employee or something would normally --

3 A. I think our clerk would have copies of all the
4 contracts. Our office manager would probably have a good
5 sense of how much was paid for expert resources. So most
6 of that could be found between my office manager and
7 probably the clerk's office.

8 Q. The next sentence, it says: "During his
9 representation of Mr. Lovell, Mr. Newton made repeated
10 misrepresentations to the press and the Court concerning,
11 among other things, the County's willingness to pay for
12 his services."

13 Are the misrepresentations to the press and the
14 Court that you're referring to in this email the ones
15 that you already described for us in this deposition?

16 A. Yes.

17 Q. Are you aware of any effort during your tenure
18 to quantify the amount spent on prosecution of capital
19 cases?

20 A. Yes.

21 Q. What effort?

22 A. So we have had a number of capital cases over
23 the years. And I haven't done a formal in the form of a
24 memo, but I have asked on given cases approximately what
25 the State spends on experts. We don't spend any more on

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1 prosecutors. They simply get paid what they're paid. So
2 the only difference is what the state spends on experts,
3 and so I had looked at that a time or two. I don't
4 remember what the answer was, but we don't pay our
5 prosecutors a dime more for a capital case than they get
6 for a misdemeanor or some other case.

7 Q. No, but they're going to spend more time on a
8 capital case than they are on a misdemeanor, right?

9 A. Oh, yeah. Sure, they spend plenty of time on
10 capital cases, obviously.

11 Q. Are you aware of any effort during your tenure
12 to quantify how much extra effort prosecutors have to put
13 in on capital cases?

14 A. Not in any sort of exact numerical form. We
15 haven't tried to break down exactly the hours. Like I
16 said, I think the only thing I've tried to add up was the
17 additional costs of experts.

18 Q. Who is Adam Troop; do you know?

19 A. Yes. Adam Troop is a UAX lobbyist.

20 Q. So in February of 2018, you were looking for
21 information to provide to Adam Troop about capital
22 defense costs for 2016 and 2017. Do you remember that?

23 A. I do remember vaguely. I think that had to do
24 with the death penalty legislation.

25 Q. Do you know what the purpose was for which

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1 Mr. Troop was requesting the information?

2 A. Yes. I think he was trying to determine the
3 cost overall of prosecuting and defending, all of the
4 costs of a death penalty case, what it costs the state,
5 to help legislators understand whether the death penalty
6 should remain or not.

7 Q. And it looks like the only thing the County was
8 able to give him was how much was spent on the defense
9 and nothing on the prosecution; is that your memory?

10 A. I don't remember. And I don't even remember if
11 he asked specifically for one side or the other.

12 (EXHIBIT-18 marked.)

13 Q. (By Ms. Porter) Could you please look at
14 Exhibit-18. And you're welcome to look at any part of
15 it, but I'm not necessarily going to ask you about the
16 content.

17 A. Okay.

18 Q. Okay. Hang on one second. Let me refer you
19 briefly back to Exhibit-5, but hang on to Exhibit-18.
20 And then just go back and take a quick look at Exhibit-5.

21 A. Exhibit-5?

22 Q. Yeah.

23 A. All right.

24 Q. Do you see towards the bottom of the page the
25 email from Mr. Newton to Mr. Baron?

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1 A. Uh-huh.

2 Q. Which ultimately was forwarded to you. Do you
3 see that?

4 A. I do.

5 Q. And in that email Mr. Newton says that he had
6 estimated 500 to 700 hours. Do you see that?

7 A. I do see that.

8 Q. So in Exhibit-18, where are you getting that
9 600, or was that just a misstatement?

10 A. Either I took it from somewhere else or it was
11 a misstatement. I don't recall, but I see it in Bryan's
12 summary here. In paragraph 7 in Exhibit-18, Bryan says
13 6- to 700 hours. And so I either got that from Bryan or
14 another email somewhere. But 6- to 700 is what Bryan
15 said at one point.

16 Q. Did you do any checking to make sure that your
17 factual statements to Mr. Harris were accurate?

18 A. I just sent him what -- these paragraphs that
19 you see in the email. I forwarded those and my
20 statements are based on those.

21 Q. Okay. So and that -- that helps me figure
22 out -- so the first part of this email in Exhibit-18, the
23 first four paragraphs are what you wrote? And then is
24 the rest cut and paste from Mr. Baron?

25 A. Yes.

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1 Q. When you were writing this email on
2 July 18, 2018, did you go back and try to recreate the
3 timeline yourself, or did you rely entirely on what
4 Mr. Baron had here in this cut and paste?

5 A. I relied on what was in the cut and paste.

6 Q. In the third paragraph where you wrote -- you
7 say: "Despite this arrangement" -- and then you have a
8 quote -- "the County refuses to fund anything." Do you
9 see that?

10 A. Uh-huh.

11 Q. Can you help me -- you don't remember what the
12 beginning of that sentence was, do you?

13 A. I don't.

14 Q. Did you ever learn that Mr. Baron was actually
15 omitting the opening words or clauses of sentences by
16 Mr. Newton in order to claim a misrepresentation?

17 MS. VANORMAN: Objection. Mischaracterizes the
18 evidence.

19 THE WITNESS: And I apologize. I forgot your
20 question.

21 (The previous question was read by the court
22 reporter.)

23 THE WITNESS: I don't believe Mr. Baron
24 misrepresented anything that I could see having looked at
25 things in context.

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1 Q. (By Ms. Porter) Well, did you ever, for
2 example, look at a partial quote that Mr. Baron was using
3 to make sure that he was, in fact, fairly quoting the
4 entire sentence, or did you just rely on whatever he was
5 telling you?

6 A. So I relied to a great deal on what he was
7 telling me, and sometimes I read the documents in which
8 the statements -- from which the statements were taken as
9 well. I don't remember exactly which documents and when,
10 but I do remember from time to time looking at things
11 that Bryan provided and reading it in context as well.

12 Q. And I apologize. At what time did you do that?
13 At what point in the process?

14 A. I don't remember. And I don't even know to
15 exactly which statements we're referring, because we're
16 speaking broadly, I think, about statements that you've
17 indicated he left portions out.

18 Q. I'm just asking you when, if ever, did you look
19 at underlying documents beyond what you may have
20 described earlier in the deposition?

21 A. Uh-huh. I don't recall.

22 Q. Does that mean you don't remember one way or
23 the other or you don't think there were any others?

24 A. It means I don't remember when I looked at
25 them.

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1 Q. Can you remember any documents that you did
2 look at to verify what Mr. Baron was telling you that you
3 haven't already described in this deposition?

4 A. I don't remember any other specific documents,
5 no.

6 Q. At some point, did Weber County suggest that if
7 a lawyer wanted to do contract work for Weber County that
8 they would have to agree to reimburse the County if they
9 withdrew from the case?

10 A. I believe there was a provision in the
11 appellate contract that required reimbursement if they
12 withdrew or had a conflict and had to be taken off the
13 case, as I recall.

14 Q. And was that removed from the contract?

15 A. Was that language removed from the contract?

16 Q. Yes.

17 A. I don't recall.

18 Q. Did you have any discussions with anyone about
19 whether that was a violation of the 6th Amendment to
20 include a clause in a criminal defense contract that
21 required reimbursement for withdrawal?

22 A. I don't remember having that conversation.

23 Q. Did you ever consult anyone about whether that
24 would be a 6th Amendment violation?

25 A. No.

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1 Q. Did you ever speak with the media directly, and
2 I mean orally, about the Lovell case or Sam Newton?

3 A. I don't recall speaking to them orally. You've
4 obviously identified a couple of emails where I spoke
5 with them through email. I can't say for sure that I
6 didn't, but I don't remember speaking with them orally.

7 Q. Did you ever have an opportunity to speak with
8 the media and decline?

9 A. Most likely.

10 MS. PORTER: Let me just take a quick look. We
11 might be out of here.

12 I don't have any further questions.

13 THE WITNESS: Are you sure, because I'm having
14 so much fun.

15 MS. PORTER: I know. People love my
16 depositions. They do. They try to schedule one
17 annually.

18 MS. VANORMAN: I do have one follow-up
19 question.

20 EXAMINATION

21 BY MS. VANORMAN:

22 Q. So you were asked by counsel regarding
23 Mr. Newton's right to make interpretations?

24 A. Yes.

25 Q. Do you believe that he has the right to express

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1 those interpretations as stated facts to the Court?

2 A. If he expresses them to the Court as an opinion
3 or an interpretation, yes. If he states them as fact,
4 no.

5 MS. VANORMAN: Thank you.

6 FURTHER EXAMINATION

7 BY MS. PORTER:

8 Q. So just to clarify this, for example, suppose
9 Mr. Newton quoted an email from the County and then said,
10 you know, based on that quotation, "In essence the County
11 is saying this," he has the right to do that, right?

12 A. I think if he says "in essence," yes. If he
13 says, "The County is saying this," knowing that there are
14 subsequent follow-up emails clarifying that that is not
15 the County's position, then I think that would be an
16 improper misrepresentation.

17 Q. Even if he's just characterizing one email and
18 then discussing another one later on in context, you're
19 saying he can't do that?

20 A. I'm saying if he states as fact that the County
21 refused to pay him more than \$15,000 knowing that that is
22 not true because of the other emails, then that would be
23 a misrepresentation to the Court that would not be an
24 appropriate assertion.

25 MS. PORTER: Okay. I understand what you're

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1 saying. I don't have anything further.

2 MS. VANORMAN: I do want to him to read and
3 sign.

4 (The proceedings concluded at 2:35 p.m.)
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CERTIFICATE

State of Utah)
 ss.
County of Wasatch)

I, Brandy Harris, a Registered Professional Reporter and Notary Public in and for the State of Utah, do hereby certify:

That the testimony of CHRISTOPHER ALLRED, the witness in the foregoing proceeding named, was taken on April 18, 2019; that said witness was by me, before examination, duly sworn to testify the truth, the whole truth, and nothing but the truth in said cause;

That the testimony of said witness was reported by me in stenotype and thereafter transcribed into typewritten form;

That the same constitutes a true and correct transcription of said testimony so taken and transcribed and that the said witness testified as in the foregoing annexed pages set out.

I further certify that I am not of kin or otherwise associated with any of the parties of said cause of action and that I am not interested in the event thereof.

WITNESS MY HAND at Heber City, Utah, this 30th day of April, 2019.



Brandy Harris, RPR
Utah License No. 5262004-7801
State of Utah Notary Public
Commission Expires:
September 24, 2021

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Case: Newton vs. Weber County
Civil No.: 1:18-cv-00015 RJS
Date: April 18, 2019
Reporter: Brandy Harris

WITNESS CERTIFICATE

State of Utah)
County of Wasatch ss.)

I, CHRISTOPHER ALLRED, HEREBY DECLARE: That I am the witness referred to in the foregoing testimony; that I have read the transcript and know the contents thereof; that with these corrections I have noted this transcript truly and accurately reflects my testimony.

PAGE-LINE	CHANGE/CORRECTION	REASON
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[illegible]

No corrections were made.

CHRISTOPHER ALLRED

SUBSCRIBED and SWORN to before me on this _____ day of _____, 2019, by CHRISTOPHER ALLRED.

Notary Public

LAW OFFICE OF SAMUEL P. NEWTON, P.C. vs WEBER COUNTY

Christopher Allred

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<p>Exhibits</p> <p>Allred Exhibit 16 41:1,5 Allred Exhibit 17 50:12, 14 Allred Exhibit 18 54:12, 14, 19 55:8, 12, 22</p> <hr/> <p>\$</p> <p>\$1.6 50:18, 19 \$15,000 27:4, 25 60:21 \$150 22:14 \$22,000 31:14 \$500 6:20 \$75,000 17:2 30:22</p> <hr/> <p>1</p> <p>100 27:4 16 41:2 17 35:1 36:18 18 56:2 62:7 63:2 18,000 31:18 1:18-cv-00015 63:1</p> <hr/> <p>2</p> <p>2 12:20 20 49:13 2016 10:14 13:3, 23 19:16 20:1 53:22 2017 14:21 18:16, 17, 19 19:1, 2, 17 24:12, 17 25:6 35:1 36:18 41:6 53:22 2018 50:15 53:20 56:2 2019 62:7, 17 63:2, 23 2021 62:23 22 4:16 22,000 34:8 23 27:5, 25 23B 15:2, 3, 4, 17 21:5 22:10 31:20 33:3 34:7 24 41:6 62:23 28 10:14 2:35 61:4 2:48 35:1, 6, 7</p> <hr/> <p>3</p> <p>30th 62:16</p>	<p>5</p> <p>5- 46:12, 16 500 22:22 46:10, 18, 20 55:6 5262004-7801 62:22 5th 13:3, 23</p> <hr/> <p>6</p> <p>6 50:15 6- 22:13 46:17 55:13, 14 600 22:22, 24 55:9 6th 58:19, 24</p> <hr/> <p>7</p> <p>7 14:21 55:12 700 22:13, 22, 23, 24 44:9 46:9, 10, 11, 12, 13, 17, 18, 19 55:6, 13, 14 789 14:4 7th 15:19 17:13</p> <hr/> <p>A</p> <p>accept 23:17 accepted 11:14 12:13 accomplish 49:17 accurate 55:17 accurately 63:8 action 38:3 62:15 actions 16:4 35:25 36:23, 24 38:4 actual 41:20 Adam 53:18, 19, 21 add 53:16 addition 31:19 additional 9:24 14:13 16:8 27:11, 16 30:24 31:4, 14, 18, 22, 25 32:16, 18 34:10 41:23 53:17 additions 13:16 adequately 45:15 admitted 35:10 36:14 37:5, 12 advise 47:1 afoul 36:6 afternoon 26:13 AG's 7:18 agree 10:20 58:8 ahead 43:7 45:23</p>	<p>allegedly 29:18 alleged 28:11, 20 29:8 39:22 allegedly 29:20 alleging 18:25 Allred 4:2, 9 62:6 63:6, 22, 23 altogether 7:22 Amendment 58:19, 24 amount 23:17 51:9 52:18 and/or 13:8 14:12 19:9 annexed 62:13 annually 50:20 59:17 anymore 44:15, 23 45:5, 10 apologize 11:9 18:22 21:23 29:5 34:19, 21 43:24 44:3 51:18 56:19 57:12 Apparently 41:7 appeal 6:12 7:16, 17, 20 8:7 10:20 12:2, 14, 16 20:7, 12 33:2, 22 37:4 appeals 7:14 8:1, 2 20:11 51:2 appeared 22:20 appellate 23:21, 22 24:1, 4 33:4, 6, 11, 14, 17, 19, 24 38:18, 23 51:16 58:11 appellee 33:25 apply 31:8, 24 applying 31:17 apprised 8:21 approximately 19:2 52:24 April 62:7, 17 63:2 argument 20:8, 10, 14 arise 19:25 arisen 20:2 arrangement 56:7 arrived 50:23 articles 26:11 assertion 27:24 60:24 assign 51:24 assigned 25:24 assistance 15:1 assume 11:24 20:3, 13 attended 15:24 attending 16:3 17:3 attention 16:22 19:16 20:4 attorney 4:21, 23, 24 5:2 6:4, 7 8:1 18:5 27:19 28:18 40:6 attorneys 41:14</p>	<p>attributable 31:25 August 41:6 authority 25:14, 19 43:8, 16, 18, 23 authorize 17:23 18:1 authorizing 17:16 aware 5:20 9:5, 15 18:14, 18, 24 28:8, 23 34:2 39:25 42:22 43:1, 6, 9 52:17 53:11</p> <hr/> <p>B</p> <p>back 6:23 7:20, 23 8:4, 9 13:14 18:20 27:10 32:4 37:16 42:5, 21 44:17 45:25 54:19, 20 56:2 background 21:18 bar 15:25 16:3 17:4 Baron 6:5 11:1, 7 12:24 13:8 14:12 19:9 20:19 21:9, 11, 19, 25 22:19 26:1, 2, 5, 7, 8, 15 27:6 28:24 29:7, 8 30:17 31:23 32:21 38:10 40:11, 14, 22 43:6 47:22 51:13 54:25 55:24 56:4, 14, 23 57:2 58:2 based 27:22 39:3, 4 55:20 60:10 basic 46:25 basis 5:12 22:21 44:24 45:11 began 4:19 beginning 56:12 behalf 33:25 belief 33:1 believed 29:9 37:9 41:15 bet 22:3 big 38:6 bill 17:1, 12, 15 22:13 31:15 billed 17:3 billing 16:1, 3 20:2, 5 29:16 billings 47:8 bills 18:7 20:22, 23 bit 9:14 21:23 30:16 38:5 blowing 37:8 38:5 board 23:13 boat 23:1 body 25:18, 20 bolster 41:25 bother 43:15, 22, 23 bottom 10:2, 12 54:24 Brandy 62:4, 21 63:2</p>
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